

VERDICTUM.IN

ITEM NO.19

COURT NO.11

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS. 2764-2771/2022

M/S IREO GRACE REALTECH PVT. LTD.

APPELLANT(S)

VERSUS

SANJAY GOPINATH

RESPONDENT(S)

(ONLY D.NO. 51115/2023 AND I.A. NO. 81886/2024 IN D.NO. 51115/2023 IS LISTED UNDER THIS ITEM.)

WITH

DIARY NO(S). 51115/2023 (XVII-A)
(IA No. 84009/2024 - APPLICATION FOR PERMISSION
IA No. 81886/2024 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 24-04-2024 These appeals were called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Appellant(s) Mr. Ranjit Kumar, Sr. Adv.
Mr. Abhimanyu Bhandari, Adv.
Ms. Rooh-e-hina Dua, AOR
Ms. Dhanakshi Gandhi, Adv.
Ms. Ruchi, Adv.
Mr. Sameer Chaudhary, Adv.
Ms. Shakshi Kaushik, Adv.
Mr. Aamir Husain, Adv.

Mr. Mahesh Agarwal, Adv.
Mr. Anshuman Srivastava, Adv.
Ms. Biswabara Dash, Adv.
Mr. E. C. Agrawala, AOR

For Respondent(s)

Mr. R. Venkataramani, Attorney General for India
Mr. Chitvan Singhal, Adv.
Mr. Sriharsh Nahush Bundela, AOR

Mr. Deepak Kumar Khushlani, Adv.
Mr. Santosh Kumar Pandey, AOR

VERDICTUM.IN

Mr. Chritarth Palli, AOR

Mr. Abhay Kumar, AOR

Mr. Shagun Ruhil, Adv.

Ms. Kusum Pandey, Adv.

**UPON hearing the counsel, the Court made the following
O R D E R**

DIARY NO. 51115/2023:

1. On the last date of hearing, Mr. Ranjit Kumar, learned Senior counsel appearing for the appellant-Company had brought to the notice of this Court, the order dated 02nd April, 2024, passed by the National Consumer Disputes Redressal Commission¹, New Delhi whereunder non-bailable warrants were issued against the Directors of the appellant-Company. It was submitted that the aforesaid order was passed by the NCDRC despite the fact that an earlier order passed by this Court on 01st March, 2024, issuing notice in the present Civil Appeal and directing that till further orders no coercive steps shall be taken against the Directors of the appellant – Company in the Execution Application filed by the respondent herein, was brought to its notice on 08th March, 2024. On 08th March, 2024, the order passed by this Court was duly taken notice of by the NCDRC and in spite of the restraint order, the appellant (respondent in the Execution Application) was directed to file an affidavit of compliance with regard to the execution of the decree passed in favour of the respondent herein.
2. Pursuant thereto, a joint affidavit dated 20th April, 2024, has been filed

1 For short the 'NCDRC'

VERDICTUM.IN

by the Presiding Member and Member of the NCDRC stating *inter alia* that the error committed by them was inadvertent and unintended, for which they seek an apology from this Court. The affidavit goes on to state that *“at no stage the order dated 01st March, 2024, of the Hon’ble Supreme Court was brought to our notice by the proxy Advocates”*. A similar submission has been made in paragraph ‘5’ of the affidavit wherein it has been stated that *“it is respectfully submitted that, at no stage the order of the Hon’ble Supreme Court dated 01.03.2024 directing that no coercive steps be taken against the Directors of the appellant-Company was also not brought to our notice by the counsel for either the decree holder or the proxy counsel/advocate proxies on behalf of the judgment debtors on 02.04.2024”*.

3. The aforesaid explanation has been sought to be offered for directing issuance of non-bailable warrants against the Directors of the appellant-Company.
4. Mr. R. Venkataramani, learned Attorney General submits that the error is indeed inadvertent and unintentional on the part of the Noticees, as can be seen on a perusal of the affidavit.
5. We have expressed our reservations on the explanation sought to be offered in paragraphs ‘3’ and ‘5’ of the affidavit, inasmuch as, the said explanation runs contrary to the order passed by the NCDRC on 08th March, 2024, which is extracted hereinbelow:

VERDICTUM.IN

“Counsel for the Judgement Debtor hands over a copy of the order in Diary No. 51115 of 2023 issued by the Hon’ble Supreme Court on 01.03.2024 directing that till further orders, no coercive steps be taken against the Directors of the Appellant Company in the Execution Petition 576/2022 in CC/773/2019. Counsel for the JD is directed to file an affidavit of compliance with regard to the execution of the decree in CC/773/2019 within two weeks.”

6. A bare perusal of the aforesaid order passed by the NCDRC on 08th March, 2024 itself demonstrates that counsel for the appellant herein (Judgement Debtor) had handed over a copy of the order passed by this Court on 01st March, 2024. It is implausible to accept the explanation offered now that the aforesaid order passed by this Court was not brought to the notice of the NCDRC. Further, even after recording that the order passed by this Court has been brought to its notice, the NCDRC proceeded to direct the appellant herein to file an affidavit of compliance with regard to the execution of decree. In our view, this direction itself is unacceptable and flies in the face of the order passed by this Court on 01st March, 2024.
7. Mr. Ranjit Kumar, learned Senior counsel appearing for the appellant-Company has handed over a copy of an affidavit dated 01st April, 2024 e-filed by the appellant/Judgement Debtor before the NCDRC, on the eve of the date of hearing fixed before it, i.e. 02nd April, 2024. Enclosed with the affidavit is a copy of the order passed by this Court on 01st March, 2024. It is therefore, submitted that the Noticees cannot feign

VERDICTUM.IN

ignorance of the order passed by this Court on 01st March, 2024.

8. Learned Attorney General submits that though the Registrar of the NCDRC is present in Court with the case file, the aforesaid affidavit, copy whereof has been handed over to him, is not in the file. He states that the Registrar may be permitted to verify the position from the Registry of the NCDRC and convey necessary instructions.
9. At the request of learned Attorney General, list on 03rd May, 2024, on top of the Board.
10. In the meantime, the appellant-Company is permitted to file a reply to the affidavit of compliance filed by the Presiding Member and Member of the NCDRC.

(POOJA SHARMA)
COURT MASTER (SH)

(NAND KISHOR)
COURT MASTER (NSH)